

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 905 of 1993

with

SPECIAL CIVIL APPLICATION No 916 of 1993

with

SPECIAL CIVIL APPLICATION No 5379 of 1993

For Approval and Signature:

Hon'ble MR.JUSTICE S.K.KESHOTE

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1. Whether Reporters of Local Papers may be allowed to see the judgements?
2. To be referred to the Reporter or not?
3. Whether Their Lordships wish to see the fair copy of the judgement?
4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder?
5. Whether it is to be circulated to the Civil Judge?

BAHADURSING JEVABHAI THROUGH HEIRS

Versus

STATE OF GUJARAT

Appearance:

1. Special Civil Application No. 905 of 1993
MR KB PADIA for Petitioners
MS SIDDHI TALATI for Respondent-State and its Officers
MR NM KAPADIA for Private Respondent-Corporation
2. Special Civil Application No 916 of 1993
MR KB PADIA for Petitioners
MS SIDDHI TALATI for Respondent No. 1, 2 & 3
MR NM KAPADIA for Respondent No. 5, 6

3. Special Civil Application No.5379 of 1993

MR KB PADIA for Petitioners

MS SIDDHI TALATI for Respondent-State and its
Officers

MR NM KAPADIA for Respondents No.5 & 6

CORAM : MR.JUSTICE S.K.KESHOTE

Date of decision: 11/09/97

ORAL JUDGMENT

#. Identical questions have been raised in all these Special Civil Applications and as such, with the consent of parties, the matters are being taken for hearing together and are being disposed of by this common order.

#. The petitioners are the owners of the land of survey numbers given in respective Special Civil Applications and situated at village Bolav in the Olpad Taluka of District Surat. On the request of petitioners, the competent revenue authority has granted permission for non agricultural use thereof on which fact there is no dispute between the parties. After grant of permission for non agricultural purpose, the owners of the lands, as what is alleged by private Corporation in Special Civil Application No.905 of 1993 and respondents No.5 and 6 in other two petitions, have entered into an agreement to sale their lands with the Corporation. The learned counsel for respondent-Corporation in first petition and respondents No.5 and 6 in the last two petitions, made a statement before this Court that sale consideration of the agreement has been paid to the owners. However, the learned counsel for the petitioners dispute this fact. The petitioners owners thereafter filed application before the Taluka Development Officer concerned for grant of permission for reconversion of the lands in dispute from non agricultural to agricultural. So the petitioners made a request for restoration of agricultural use of the lands in dispute.

#. The parties are not in dispute that on the basis of the alleged agreement to sale, the private respondent-Corporation in one petition and respondents No.5 and 6 in the last two petitions filed suits for specific performance thereof. There is also no dispute that the lands in dispute are presently in possession of petitioners. Shri Kapadia, the learned counsel for the Corporation and respondents No.5 and 6 in the last two petitions submitted that after agreement to sale the purchaser of these lands have divided the same into plots

and the petitioner, as a power of attorney holder thereof, executed the sale deed in favour of the plot holders. However, the learned counsel for the petitioner disputes this fact, but he admits that suits for specific performance of the agreement to sale have been filed which are pending in the Court of Civil Judge (S.D.), Surat.

#. As the civil suits are pending, I do not consider it to be proper nor necessary to go on the aforesaid question in these Special Civil Applications. The consideration in these Special Civil Applications, is limited only to the the question of inaction or omission on the part of respondent-Taluka Development Officer not to decide the applications of the petitioners for conversions of the lands from non agricultural to agricultural purpose.

#. The learned counsel for the petitioners submitted that when the petitioners filed an application for conversion of lands as aforesaid, it was obligatory on the part of Taluka Development Officer to decide the same in accordance with law. Whether it accepts these applications or not is a different matter, but where the applications are filed by petitioners, then the same have to be decided within a reasonable period on merits.

#. I find sufficient merits in the contention of the learned counsel for the petitioners. The officer of the State to whom the applications are submitted, under the statutory provisions i.e. Land Revenue Code, is under obligation to decide the same within a reasonable time in accordance with law. He has no discretion in the matter to sit over those applications and the same have to be decided expeditiously. There should be no complaints of people that the officers of the State are not discharging their duties which have been conferred upon them under the statute. Such applications are maintainable on which there is no dispute between the parties. The dispute is only whether the applications should be granted or not. As per the case of petitioners they have now acquired irrigation facilities and they want to carry out agricultural operations and as per the respondent-Corporation and respondents No.5 and 6 in two other petitions, land owners are attempting to back out from the promise as the price of the lands in dispute now is very high. However, as observed earlier, it is not the matter relevant here to go on. The learned counsel for the respondent-State and its officers very fairly submitted that the applications, if any, filed by petitioners, shall be decided within a reasonable time

granted by this Court. In case the petitioners file such applications now, then too the same have to be decided within a reasonable time. However, I may make it clear that the averments made by petitioners in the Special Civil Applications as well as the copies of documents filed to show that applications have been filed for grant of permission for conversion of lands aforesaid have not been controverted.

#. In the result, these Special Civil Applications are disposed of with directions to the Taluka Development Officer concerned to decide the applications of the petitioners filed for reconversion of the lands in dispute from non agricultural to agricultural purposes, within a period of four months from the date of receipt of writ of this order. It is further made clear that in case the respondent-Corporation in one petition and respondents No.5 and 6 in last two petitions as well as the alleged purchasers of the plots, if they so apply for hearing to be given to them, to the Taluka Development Officer, then before passing the orders on the applications of the petitioners aforesaid, those persons may be given opportunity of hearing. In both the cases, i.e. grant of applications or refusal thereof, the Taluka Development Officer is expected to pass a reasoned order.

#. The Special Civil Applications and Rule in all the three Special Civil Applications stand disposed of in aforesaid terms with no order as to costs.

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(sunil)